

CONCURRENCE COPY

HEALTH INSURANCE LEVIES BILL, 1982

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The objects of this Bill are—

- (a) to impose a monthly levy on organisations carrying on hospital benefits business in New South Wales;
- (b) to make provision to free contributors to hospital benefit funds from out-patient hospital charges and ambulance fees; and
- (c) to make other provisions of a consequential, ancillary or transitional nature.

The Bill contains the following provisions:—

Clause 1. Short title.

Clause 2. Commencement.

Clause 3. Arrangement.

Clause 4. Interpretation. "Monthly levy" is defined as an amount calculated by reference to the total amount of contributions received from contributors to a basic hospital benefits table, to the single rate of contribution to that table and to the prescribed rate. The prescribed rate is 40 cents for the month of January, 1983, and 70 cents thereafter, subject to automatic adjustment as referred to in clause 16 below.

Clause 5 binds the Crown.

Clause 6 constitutes the office of Commissioner for Health Insurance Levies ("the Commissioner") and the office of Assistant Commissioner.

Clause 7 provides for the appointment and powers of inspectors.

Clause 8 requires certain particulars to be furnished to the Commissioner.

Clause 9 protects the Commissioner and certain others from personal liability.

Clause 10 requires an organisation which carries on the business in New South Wales of providing hospital benefits to contributors to pay the monthly levy.

Clause 11 requires any such organisation to furnish a return with each monthly levy.

Clause 12 makes provision with respect to the assessment of the monthly levy in certain circumstances.

Clause 13 provides for the payment of an additional levy if the monthly levy is not paid by the due date.

Clause 14 provides that a monthly levy or additional levy may be recovered as a debt if it is not paid by the due date.

Clause 15 provides that money recovered under the proposed Act shall be paid into the Consolidated Fund, but permits the Treasurer to make payments to persons on behalf of the Australian Capital Territory and the Northern Territory in relation to so much of the levies paid under the proposed Act as relates to contributors resident in those Territories.

Clause 16 and Schedule 2 provide for the automatic adjustment of the prescribed rate by reference to movements in average weekly earnings and the Consumer Price Index.

Clause 17 exempts a person who is a contributor to a hospital benefits fund conducted by an organisation from payment of out-patient hospital fees and ambulance fees.

Clause 18 requires a person to make a declaration in order to be eligible for an exemption referred to in clause 17.

Clause 19 requires organisations which are liable to pay the monthly levy to keep certain records.

Clause 20 prohibits the disclosure of information obtained in connection with the administration or execution of the proposed Act.

Clause 21 penalises false or misleading statements made under the proposed Act.

Clause 22 makes provision with respect to proceedings for offences.

Clause 23 provides that in certain circumstances a director of a corporation or a person concerned in the management of a corporation is guilty of an offence if the corporation contravenes the proposed Act.

Clause 24 makes provision for the service of documents by the Commissioner.

Clause 25 and Schedule 3 make transitional provisions and in particular provide for the winding up of an ambulance contribution scheme under the Ambulance Services Act, 1976.

Clause 26 empowers the making of regulations.

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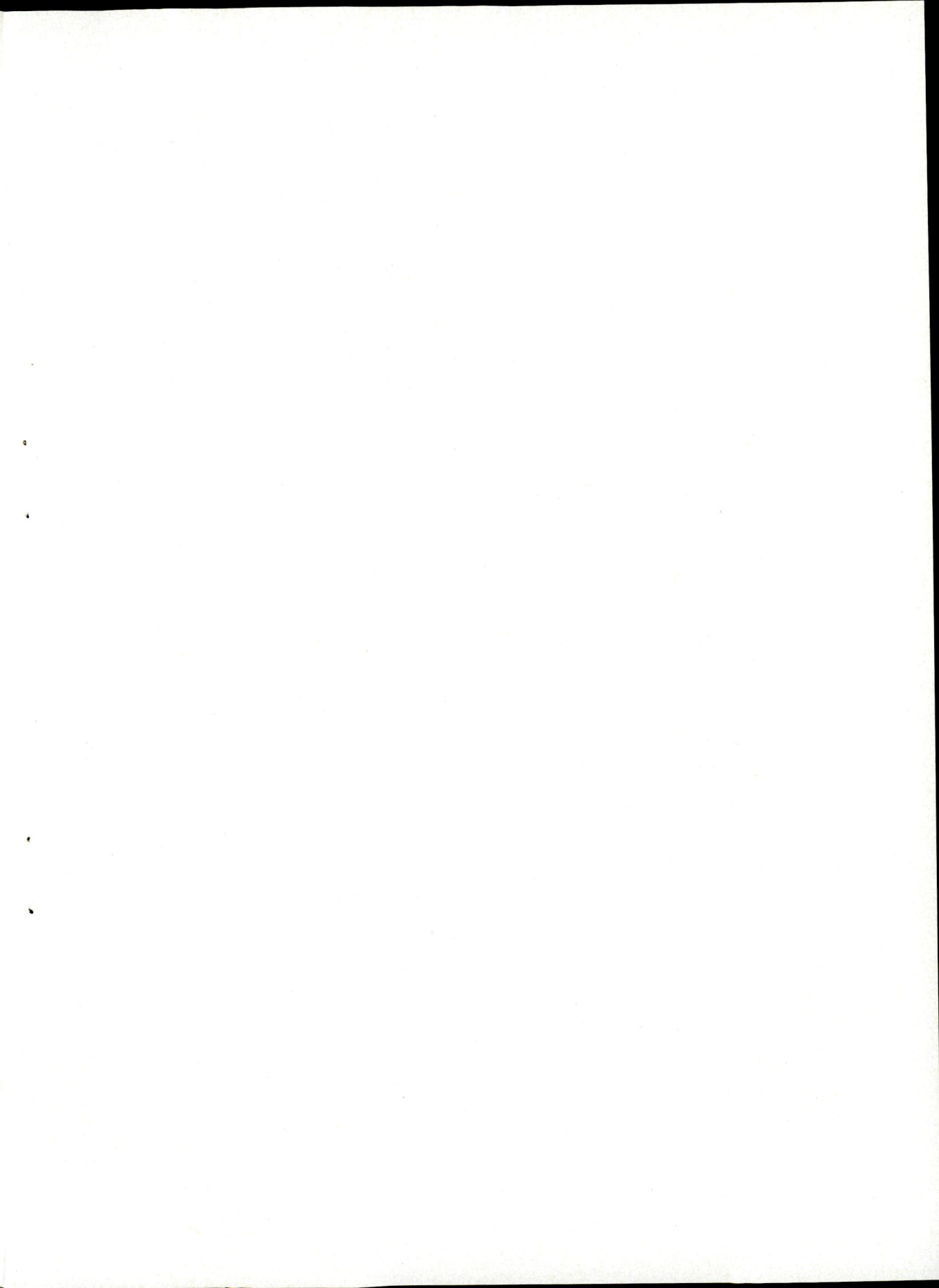
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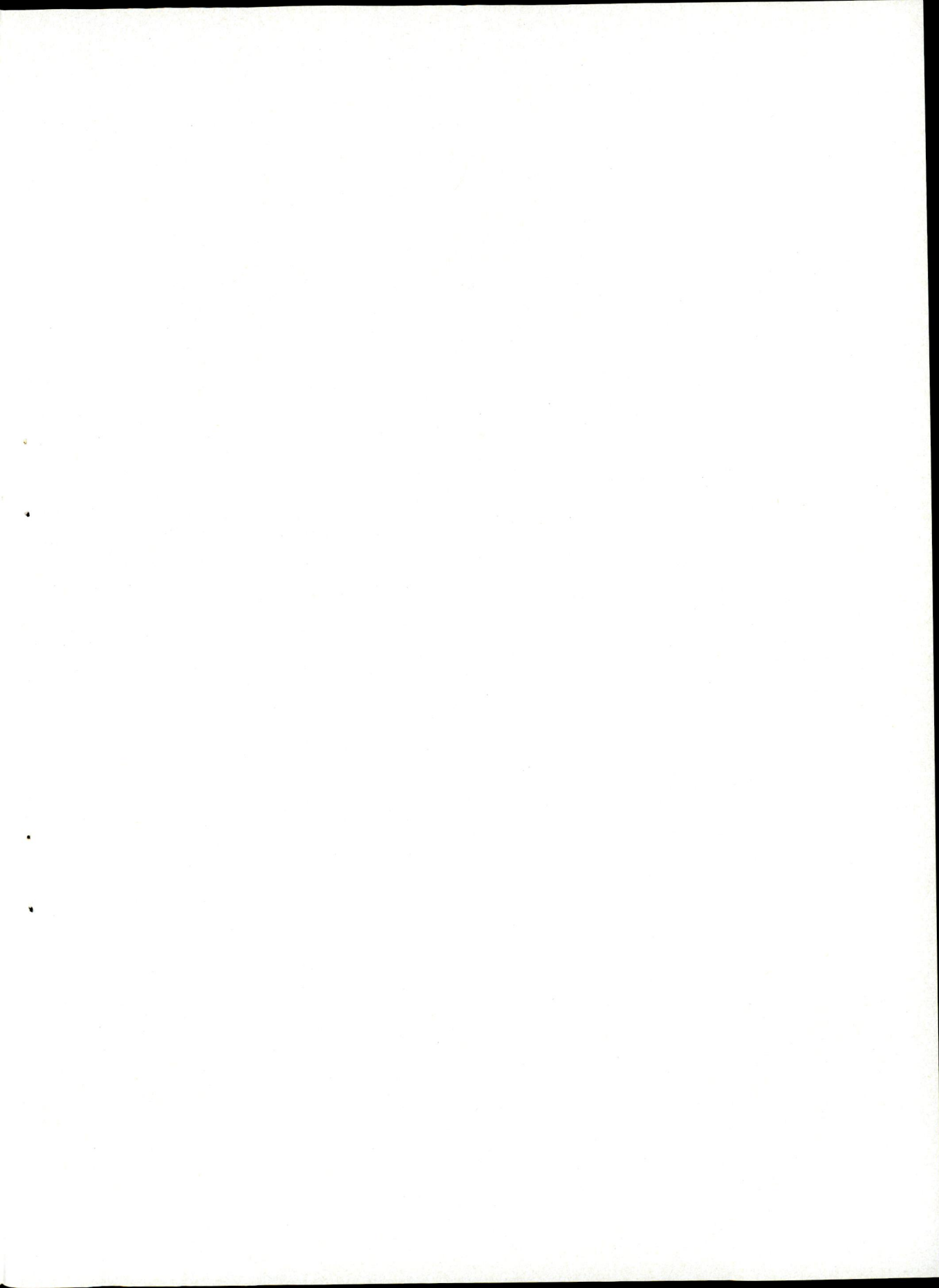
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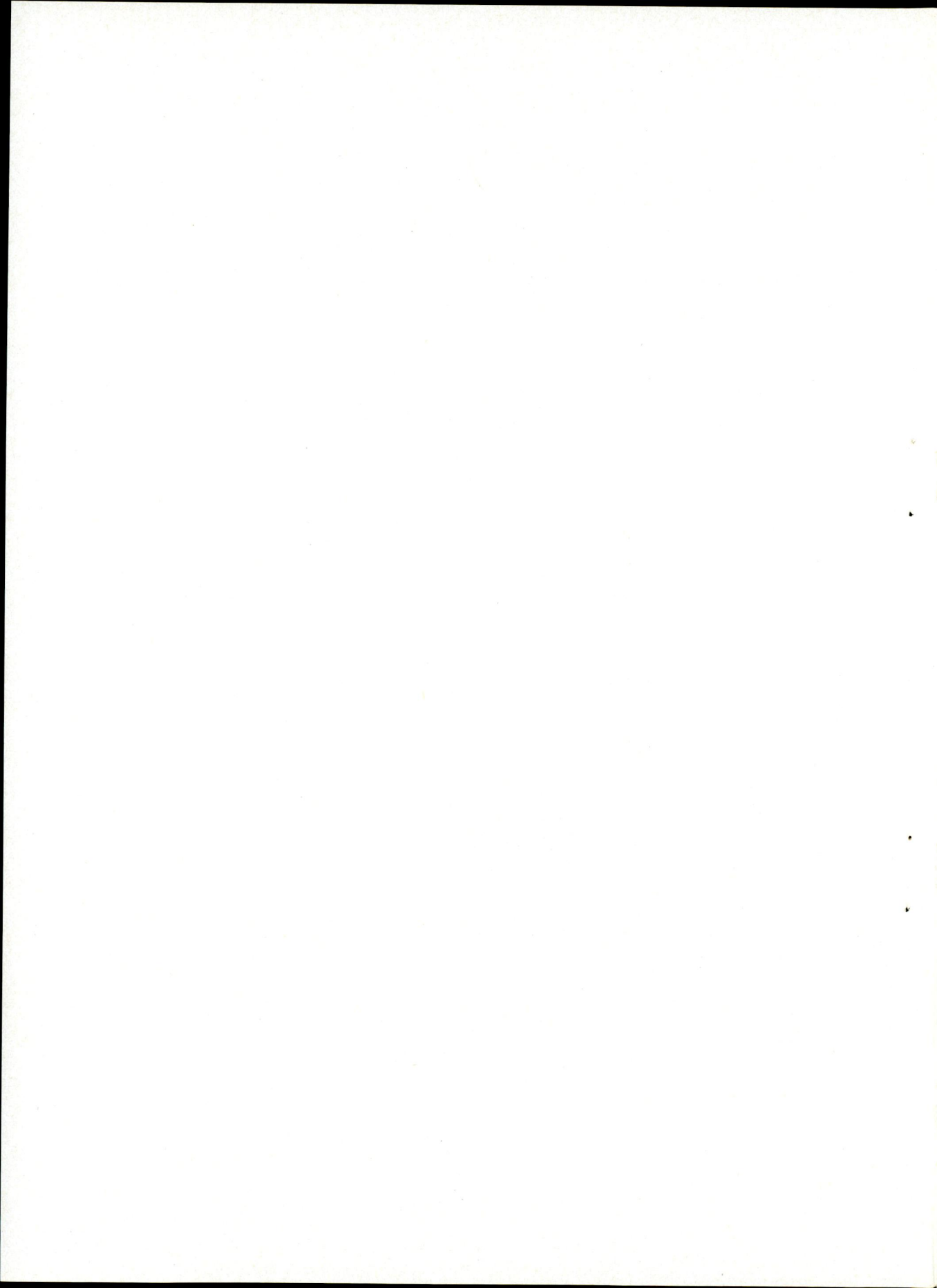
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Clause 26 empowers the making of regulations.









HEALTH INSURANCE LEVIES BILL, 1982

No. , 1982.

A BILL FOR

An Act to impose a levy on organisations carrying on hospital benefits business in New South Wales; to make provision to free contributors to hospital benefit funds from certain hospital and ambulance fees; and for other purposes.

[MR BRERETON—1 *December*, 1982.]

Health Insurance Levies.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

5

PART I.

PRELIMINARY.

Short title.

1. This Act may be cited as the "Health Insurance Levies Act, 1982".

Commencement.

- 10 **2. (1)** Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act shall commence on 1st January, 1983.

Arrangement.

- 15 **3.** This Act is divided as follows:—

PART I.—PRELIMINARY—*ss.* 1–5.

PART II.—ADMINISTRATION—*ss.* 6–9.

PART III.—LEVIES—*ss.* 10–16.

PART IV.—EXEMPTION FROM FEES—*ss.* 17, 18.

- 20 PART V.—MISCELLANEOUS—*ss.* 19–26.

SCHEDULE 1.—RELEVANT MONTHS.

SCHEDULE 2.—ADJUSTMENT OF PRESCRIBED RATE.

SCHEDULE 3.—TRANSITIONAL PROVISIONS.

*Health Insurance Levies.***Interpretation.**

4. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

5 “ambulance service” means a service related to the work of rendering first aid to, and the transport of, sick and injured persons, but does not include a service of a class prescribed for the purposes of this definition;

“Assistant Commissioner” means the Assistant Commissioner for Health Insurance Levies referred to in section 6;

10 “basic hospital benefits” means those benefits payable to a contributor by an organisation in accordance with the basic hospital benefits table of the organisation;

“Commissioner” means the Commissioner for Health Insurance Levies referred to in section 6;

15 “contributor”, in relation to a hospital benefits fund conducted by an organisation, means a person who is a contributor to that fund in accordance with the rules of the organisation, and includes a person for whom or on whose behalf contributions are made;

20 “hospital benefits fund” means a fund out of which an organisation makes payments to contributors for periods of accommodation and maintenance in hospitals, and for surgical, therapeutic or other medical or health treatment, service or procedure in hospitals;

“inspector” means an inspector referred to in section 7 (1);

“levy” means a monthly levy or an additional levy under this Act;

25 “month” means any of the 12 months of the year;

“monthly levy”, in relation to a particular month specified in Column 1 of Schedule 1 in which the monthly levy is payable by an organisation, means the amount calculated in accordance with the following formula:—

30

$$L = \frac{AC}{B}$$

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where—

L is the monthly levy to be obtained;

A is the total amount of contributions received from contributors to the organisation in the relevant month (being the month specified in Column 2 of Schedule 1 opposite that particular month) for the purpose of securing entitlement to basic hospital benefits;

B is the amount of weekly contribution, as at the 15th day of that relevant month, required to be paid to the organisation by a single person for the purpose of securing entitlement to basic hospital benefits; and

C is the prescribed rate;

“organisation” means a society, body or group of persons, whether corporate or unincorporate, which conducts a hospital benefits fund;

“out-patient service”, in relation to a hospital, means a health service or procedure provided by the hospital to a person other than an in-patient in the hospital, but does not include a health service or procedure of a class prescribed for the purposes of this definition;

“prescribed rate” means—

(a) for January, 1983—40 cents; and

(b) thereafter—70 cents, as adjusted from time to time in accordance with Schedule 2;

“record” includes book, account, deed, writing and document and any other source of information compiled, recorded or stored in written form, or on microfilm, or by electronic process, or in any other manner or by any other means;

“regulations” means regulations under this Act.

(2) An organisation shall, for the purposes of this Act, be deemed to carry on the business in New South Wales of providing hospital benefits to contributors if—

(a) for the purposes of, or purposes related to, the enrolment of contributors to a hospital benefits fund conducted by it or the payment of benefits to any such contributors—

(i) it uses premises in New South Wales; or

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- (ii) it uses, in New South Wales, the services of a servant or an agent; or
 - (b) any of the contributors to a hospital benefits fund conducted by it are permanently resident in New South Wales.
- 5 **(3)** Where an organisation carries on the business in New South Wales of providing hospital benefits to contributors—
- 10 (a) except as provided by paragraph (b), the amount of any contributions received by the organisation from persons permanently resident outside New South Wales shall not be included in A in the definition of “monthly levy” in subsection (1);
 - (b) the amount of any contributions received by the organisation from persons permanently resident in the Australian Capital Territory or the Northern Territory shall be included in A in that definition unless the regulations otherwise provide; and
 - 15 (c) the amount of any contributions of a prescribed class received by the organisation shall not be included in A in that definition.
- (4)** Where a levy comprises, in addition to a number of dollars, a number of cents, that number of cents shall, for the purposes of this Act, be disregarded.

20 Crown bound.

5. This Act binds the Crown not only in right of New South Wales but also, so far as the legislative power of Parliament permits, the Crown in all its other capacities.

PART II.

25

ADMINISTRATION.

Commissioner and Assistant Commissioner for Health Insurance Levies.

6. (1) There shall be a Commissioner for Health Insurance Levies and an Assistant Commissioner for Health Insurance Levies, each of whom shall be appointed under, and hold office subject to, the Public Service Act, 1979.

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(2) The Assistant Commissioner shall have and may exercise or perform—

- 5 (a) where the Commissioner is absent from office or the office of Commissioner is vacant, all the powers, authorities, duties and functions conferred or imposed on the Commissioner by this Act or the regulations; or
- 10 (b) where the Commissioner has directed the Assistant Commissioner to exercise or perform any of those powers, authorities, duties or functions, such of those powers, authorities, duties or functions as are specified in the direction.

(3) No person shall be concerned to inquire whether the Assistant Commissioner is entitled to exercise or perform the powers, authorities, duties and functions conferred or imposed on the Commissioner by this Act or the regulations.

15 **Inspectors.**

7. (1) Inspectors may be appointed for the purposes of this Act under and subject to the Public Service Act, 1979.

(2) For the purposes of this Act, an inspector, on production of written evidence of his appointment as an inspector, may at any reasonable
20 time and with such assistants as he considers necessary—

- (a) enter and remain on any premises which are used, or which he reasonably suspects are used, by an organisation;
- (b) request any person found in or on those premises—
- 25 (i) to produce any record which relates to, or which the inspector reasonably suspects relates to, the conduct of a hospital benefits fund, and which at the time of the request is in the possession or under the control of that person;
- (ii) to produce a statement, written in the English language, setting out the particulars contained in any such record that
30 is not written or not written in the English language; and
- (iii) to answer any question with respect to any such record or statement or the conduct of a hospital benefits fund; and
- (c) take copies of, or extracts from, any such record or statement.

Health Insurance Levies.

(3) A person shall not—

- (a) prevent or attempt to prevent an inspector from exercising any power conferred on him by subsection (2);
- 5 (b) hinder or obstruct any inspector in the exercise of any such power; or
- (c) fail to comply with a request of an inspector under subsection (2) (b).

Penalty: \$1,000 or imprisonment for 3 months, or both, and in the case of an offence under paragraph (c) an additional penalty of \$200 for every 10 day on which the offence continues.

(4) A person is not guilty of an offence under subsection (3) (c) by reason of his failure to answer any question referred to in subsection (2) (b) (iii) if he proves to the satisfaction of the court that he did not know, and could not with reasonable diligence ascertain, the answer to the question.

15 **(5)** A person is not excused from answering any question if requested to do so under subsection (2) (b) (iii) on the ground that the answer might tend to criminate him or make him liable to a penalty but the information furnished by him shall not be admissible against him in any proceedings, civil or criminal, except in proceedings for an offence under subsection (3) or 20 section 21.

(6) Where an answer to a question referred to in subsection (2) (b) (iii) or any information whatever is given to an inspector by an officer of a corporation within the meaning of the Companies (New South Wales) Code which is carrying on or has carried on the business in New South Wales of 25 providing hospital benefits to contributors, the answer and information are, for the purposes of any proceedings against the corporation under any of the provisions of this Act, binding upon and admissible in evidence against the corporation unless it is proved that the answer or information was given in relation to a matter in respect of which the officer had no authority to bind 30 the corporation.

(7) The provisions of subsection (6) are in addition to and not in derogation of any rule of law relating to the binding effect and admissibility in evidence of statements made by any officer or employee of a corporation.

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Certain particulars to be furnished.

8. (1) The Commissioner may, by instrument in writing, require—

5 (a) an organisation which is carrying on, or has carried on, the business in New South Wales of providing hospital benefits to contributors; or

(b) a person who, as the agent or employee of an organisation referred to in paragraph (a), has or has had duties, or provides or has provided services, in connection with such a business,

10 to furnish to the Commissioner, or to furnish to the Commissioner in writing, within such period as is specified in the instrument or such further period as the Commissioner may allow—

(c) a statement of such particulars with respect to that business as are so specified not being particulars relating to a period after the date of the requirement; and

15 (d) if the Commissioner thinks fit, a certificate signed by a person registered as a public accountant under the Public Accountants Registration Act, 1945, certifying that the statement is correct.

(2) A person shall not fail to comply with any requirement made of him under subsection (1).

20 Penalty: \$1,000 or imprisonment for 3 months, or both, and an additional penalty of \$200 for every day on which the offence continues.

(3) A person is not guilty of an offence under subsection (2) if the court is satisfied—

25 (a) that the defendant could not, by the exercise of reasonable diligence, have complied with the requirement to which the charge relates; or

(b) that the defendant complied with that requirement to the extent of his ability to do so.

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Protection for Commissioner, etc.

9. Any matter or thing done by the Commissioner, the Assistant Commissioner, an inspector or any other person bona fide for the purpose or purported purpose of administering or executing this Act or the regulations
5 shall not subject him personally to any action, liability, claim or demand.

PART III.**LEVIES.****Monthly levy payable.**

10. Any organisation which carries on the business in New South Wales
10 of providing hospital benefits to contributors shall be liable to pay to the Commissioner, on or before the 15th day of each month, the monthly levy.

Requirement to furnish a monthly return.

11. Any organisation which carries on the business in New South Wales
of providing hospital benefits to contributors shall furnish, together with each
15 monthly levy under section 10, a return in or to the effect of the prescribed form.

Penalty: \$5,000.

Assessment, etc., of monthly levy.

12. (1) Where an organisation is liable to pay a monthly levy under
20 section 10 but is unable to determine accurately, for the purpose of calculating the amount of that monthly levy—

- (a) the amount of contributions received from contributors to a hospital
benefits fund conducted by it who are permanently resident outside
New South Wales or in the Australian Capital Territory or the
25 Northern Territory; or

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(b) any other matter,

the organisation may make such a determination of the matter as it considers reasonable in the circumstances of the case.

(2) Where—

- 5 (a) the Commissioner is of the opinion that the amount of a monthly levy paid by an organisation is not the amount required to be paid by the organisation under section 10; or
- (b) an organisation has failed to pay a monthly levy on or before the due date in accordance with section 10,

10 the Commissioner may at any time assess the amount of the monthly levy and, for that purpose, may make such a determination of the matters referred to in subsection (1) as he considers reasonable in the circumstances of the case, notwithstanding any determination made by the organisation under subsection (1).

15 (3) Notice of an assessment of the Commissioner under subsection (2) shall be served by the Commissioner on the organisation to which the assessment relates.

(4) Where the amount of a monthly levy assessed by the Commissioner under subsection (2) is less than the amount of the monthly levy paid
20 by the organisation, the amount overpaid shall be refunded by the Commissioner.

(5) For the purposes of any proceedings against an organisation for the recovery of a monthly levy that has not been paid or for the recovery of part of a monthly levy that has not been fully paid, a certificate purporting
25 to be signed by the Commissioner and stating that a specified amount is the amount assessed under subsection (2) in respect of that levy, or is the amount as varied in pursuance of the regulations under subsection (6) in respect of that levy, is admissible in the proceedings and shall be prima facie evidence of the matters so certified.

30 (6) The regulations may make provision for or with respect to objections and appeals against assessments of the Commissioner under subsection (2).

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(7) Nothing in this section affects the date on or before which a monthly levy is payable in accordance with section 10.

Additional levy.

5 **13. (1)** If a monthly levy is not paid by an organisation on or before the due date in accordance with section 10, or on or before such later date as the Commissioner may in his discretion allow, an additional levy shall be payable by the organisation at the rate of 20 per cent per annum upon the amount of the monthly levy unpaid, to be computed from the due date or, where a later date has been allowed under this section, from that date.

10 **(2)** The Commissioner may, for reasons which in his discretion he thinks sufficient, remit any additional levy imposed or any part thereof.

Levy to be debt due to the Crown.

14. (1) A levy shall be deemed, when it becomes due and payable, to be a debt due to the Crown and payable to the Commissioner.

15 **(2)** Any levy unpaid may be sued for and recovered in any court of competent jurisdiction by the Commissioner suing in his official name.

Money to be paid into Consolidated Fund, etc.

15. (1) All money recovered under this Act shall be paid by the Commissioner into the Consolidated Fund.

20 **(2)** The Treasurer may, in respect of the Australian Capital Territory or the Northern Territory, pay from time to time in accordance with subsection (3) amounts equal to so much of the levies paid under this Act that, in the opinion of the Treasurer, relates to contributors permanently resident in that Territory.

25 **(3)** Any payment that may be made under subsection (2) in respect of the Australian Capital Territory or the Northern Territory, shall be paid out of money provided by Parliament to such person, on behalf of that Territory, as the Treasurer considers appropriate.

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Adjustment of prescribed rate.

16. Schedule 2 has effect.

PART IV.

EXEMPTION FROM FEES.

5 Exemption from out-patient hospital and ambulance fees.

17. (1) Notwithstanding anything to the contrary in the Public Hospitals Act, 1929, no fee shall be payable in respect of an out-patient service provided to a person by a hospital (being an incorporated hospital or a separate institution within the meaning of, or a hospital specified in the Fifth Schedule 10 to, that Act) if the person was, at the time the service was provided, a contributor to a hospital benefits fund conducted by an organisation to which section 10 applies.

(2) Notwithstanding anything to the contrary in the Ambulance Services Act, 1976, no fee shall be payable in respect of an ambulance service 15 provided to a person in pursuance of that Act if the person was, at the time the service was provided, a contributor to a hospital benefits fund conducted by an organisation to which section 10 applies.

(3) Subsections (1) and (2) do not affect the operation of—

- (a) section 30A of the Public Hospitals Act, 1929;
- 20 (b) section 10 of the Workers' Compensation Act, 1926; or
- (c) Division 2 of Part II of the Motor Vehicles (Third Party Insurance) Act, 1942.

Health Insurance Levies.

Declarations to be made by certain persons.

18. A person is, notwithstanding section 17, liable for payment in respect of an out-patient service referred to in section 17 (1) or an ambulance service referred to in section 17 (2) unless a declaration is made by or on behalf of the person in or to the effect of the prescribed form.

PART V.**MISCELLANEOUS.****Records to be kept.**

19. An organisation which carries on the business in New South Wales of providing hospital benefits to contributors shall—

- (a) keep such records as may be prescribed containing such particulars as may be prescribed relating to that business; and
- (b) preserve each of those records for a period of 5 years after the last entry was made in it.

15 Penalty: \$5,000.

Disclosure of information.

20. (1) Except as provided by subsection (2), a person shall not disclose any information or publish any record or part of any record obtained by him in connection with the administration or execution of this Act or the regulations, unless the disclosure or publication is made—

- (a) with the consent of the person from whom the information or record was obtained;
- (b) in connection with the administration or execution of this Act or the regulations; or
- 25 (c) for the purpose of any legal proceedings arising out of this Act or the regulations or of any report of any such proceedings.

Penalty: \$5,000.

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(2) The Commissioner may communicate any matter which comes to his knowledge in the exercise or performance of his powers, authorities, duties or functions under this Act or the regulations to an officer or authority engaged in administering or executing a law of another State or a Territory of the Commonwealth relating to the imposition of levies on organisations carrying on the business in that State or Territory of providing hospital benefits to contributors.

(3) Nothing in subsection (1) prevents the disclosure of information or the publication of a record in accordance with any lawful requirement of the Australian Statistician.

False or misleading statements.

21. (1) A person shall not—

- (a) in furnishing any return or information;
 - (b) in making a declaration; or
 - 15 (c) in keeping any record,
- pursuant to this Act, make any statement or representation that is false or misleading in a material particular.

Penalty: \$1,000 or imprisonment for 3 months, or both.

(2) It is a defence to a charge under subsection (1) if it is proved that, at the time the statement or representation was made, the defendant believed on reasonable grounds that it was neither false nor misleading.

Proceedings for offences.

22. (1) Proceedings for an offence against this Act or the regulations may be taken only in a summary manner before a stipendiary magistrate sitting in petty sessions.

(2) Proceedings for an offence against this Act may be commenced at any time within a period of 2 years after the commission of the offence.

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(3) An information for an offence against this Act or the regulations may not be laid without the approval in writing of the Minister.

(4) An information laid for an offence against this Act or the regulations shall, in the absence of evidence to the contrary, be deemed to
5 have been laid with the approval in writing of the Minister.

(5) An information for an offence against this Act or the regulations may be laid in the name of the Commissioner by any officer of the Public Service employed in the administration or execution of this Act and authorised to lay informations on behalf of the Commissioner, and any
10 prosecution instituted in the name of the Commissioner shall, in the absence of evidence to the contrary, be deemed to have been instituted by his authority.

(6) An officer referred to in subsection (5) may appear on behalf of the Commissioner in any proceedings for an offence against this Act or the
15 regulations.

Offences by corporations.

23. (1) Where a corporation contravenes, whether by act or omission, any provision of this Act or the regulations, each director of the corporation, and each person concerned in the management of the corporation, shall
20 be deemed to have contravened the same provision unless he satisfies the court that—

- (a) the corporation contravened the provision without his knowledge;
- (b) he was not in a position to influence the conduct of the corporation in relation to its contravention of the provision; or
- 25 (c) he, being in such a position, used all due diligence to prevent the contravention by the corporation.

(2) A person may be proceeded against and convicted under a provision pursuant to subsection (1) whether or not the corporation has been proceeded against or been convicted under that provision.

30 (3) Nothing in subsection (1) prejudices or affects any liability imposed by a provision of this Act or the regulations on any corporation by which an offence against the provision is actually committed.

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Service of documents.

24. (1) Any notice or other document required or authorised by this Act or the regulations to be served or given by the Commissioner shall be deemed to have been duly served or given—

- 5 (a) if delivered personally to, or if left at the last known place of abode or business in or out of the State of, the person on or to whom the notice or document is to be served or given; or
- (b) if sent by prepaid letter post, addressed to the person on or to whom the notice or document is to be served or given at his last
10 known place of abode or business in or out of the State.

(2) Service of a notice or document in accordance with subsection (1) (b) shall prima facie be deemed to have been effected at the time when it would be delivered in the ordinary course of post.

(3) The provisions of this section are in addition to and not in
15 derogation of the provisions of sections 528, 529 and 530 of the Companies (New South Wales) Code.

Transitional provisions.

25. Schedule 3 has effect.

Regulations.

20 26. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) A provision of a regulation may—

- 25 (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- (b) apply differently according to different factors of a specified kind;
or

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(c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body, or may do any combination of those things.

(3) A regulation may impose a penalty not exceeding \$2,000 for an offence against the regulation.

SCHEDULE 1.

(Sec. 4 (1).)

RELEVANT MONTHS.

	Column 1. <i>Month of year in which levy is payable.</i>	Column 2. <i>Relevant month.</i>
10		
15	January February March April May June July	October (previous year) November (previous year) December (previous year) January (same year) February (same year) March (same year) April (same year)
20	August September October November December	May (same year) June (same year) July (same year) August (same year) September (same year)

SCHEDULE 2.

(Sec. 16.)

ADJUSTMENT OF PRESCRIBED RATE.

Interpretation.

1. (1) In this Schedule, except in so far as the context or subject-matter otherwise indicates or requires—

“adjustment percentage”, in relation to a year, means (subject to clauses 2 (2) and 3 (1) (b)) the percentage for that year, calculated in accordance with clause 2 or specified pursuant to clause 3 (1) (a);

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SCHEDULE 2—*continued.*ADJUSTMENT OF PRESCRIBED RATE—*continued.*

“year” means—

- 5 (a) the period commencing on and including 1st January, 1983, and ending on and including 31st December, 1983; or
- (b) a subsequent period commencing on and including 1st January and ending on and including the next following 31st December.

(2) Where the prescribed rate is to be adjusted under this Schedule by reference to the adjustment percentage for a year, a reference (however expressed) in this Act 10 to adjusting the prescribed rate is a reference to increasing or reducing the prescribed rate, as the case may require, according to whether the adjustment percentage represents an overall increase or reduction.

(3) In this Schedule, a reference to—

- 15 (a) the March quarter of a year is a reference to January, February and March of that year;
- (b) the June quarter of a year is a reference to April, May and June of that year;
- (c) the September quarter of a year is a reference to July, August and September of that year; and
- 20 (d) the December quarter of a year is a reference to October, November and December of that year.

(4) A reference in this Schedule to the operative date in a year is a reference to 1st January in that year or such later date in that year as the Governor determines by order published in the Gazette before 1st January in that year.

25 Calculation of adjustment percentage.

2. (1) For the purposes of the definition of “adjustment percentage” in clause 1 (1), the percentage for a year (referred to in this clause as the “relevant year”) shall be calculated in accordance with the following formula:—

$$P = 0.75 p(L) + 0.25 p(I)$$

30 where—

- (a) “P” is the percentage to be obtained;

Health Insurance Levies.

SCHEDULE 2—*continued.*ADJUSTMENT OF PRESCRIBED RATE—*continued.*

- 5 (b) "p(L)" is the annual percentage change in the average weekly earnings for employees or a class of employees, for New South Wales, being the percentage change determined by reference to the amount shown for the September quarter of the relevant year to the amount shown for the September quarter of the previous year—
- 10 (i) except as provided by subparagraph (ii)—in the group of amounts set out under the heading "All males", for New South Wales, in the series of Average Weekly Earnings, issued by the Australian Statistician; or
- 15 (ii) where some other group of amounts or of numbers (being a group of amounts or of numbers contained in a publication which relates to the average weekly earnings for employees or a class of employees, for New South Wales, and which is issued by the Australian Statistician) is prescribed for the purposes of this subparagraph—in the group of amounts or of numbers so prescribed;
- 20 (c) "p(I)" is the annual percentage change in the price of goods and services, being the percentage change determined by reference to the index number shown for the September quarter of the relevant year to the index number shown for the September quarter of the previous year—
- 25 (i) except as provided by subparagraph (ii)—in the group of numbers set out as the index numbers for Sydney in the Consumer Price Index (All Groups Index) issued by the Australian Statistician; or
- (ii) where some other group of numbers or of amounts (being a group of numbers or of amounts which relate to the price of goods and services, and which is issued by the Australian Statistician) is prescribed for the purposes of this subparagraph—in the group of numbers or of amounts so prescribed.
- 30 (2) Where the percentage calculated for a year in accordance with this clause is smaller than 0.1 per cent, or is nil, there shall be deemed to be no adjustment percentage for that year.
- (3) Where pursuant to subclause (2), but not otherwise, there is deemed to be no adjustment percentage for a year, then, for the purposes of calculating the adjustment percentage for the next year—
- 40 (a) the amounts or numbers referred to in subclause (1) and shown for the September quarter of the firstmentioned year shall be deemed not to have been published in the documents so referred to; and
- (b) the amounts or numbers shown for the September quarter of the last year for which there was an adjustment percentage (including a year in which there would have been an adjustment percentage if this Act had been in

Health Insurance Levies.

SCHEDULE 2—*continued.*ADJUSTMENT OF PRESCRIBED RATE—*continued.*

5 force at that time or if clause 3 (1) (b) had not been enacted) and published in the documents so referred to shall be deemed also to be the amounts or numbers so published for the September quarter of the firstmentioned year.

(4) If at any time, whether before or after the commencement of this Schedule, the Australian Statistician has published for a particular quarter an amount or number in substitution for an amount or number previously published by him in respect thereof—

- 10 (a) except as provided in paragraph (b)—the publication of the later amount or number shall be disregarded; or
- (b) if the Minister so directs—regard shall, after the direction is given, be had to the later and not to the earlier amount or number so published,

for the purposes of this Schedule.

15 (5) Notwithstanding subclause (4), if at any time after the commencement of this Schedule the Australian Statistician changes the reference base in connection with any amounts or numbers included in any document published by him and referred to in subclause (1), then, for the purposes of the application of this clause after the change takes place, regard shall, unless the Minister otherwise directs, be had to
20 amounts or numbers published in terms of the new reference base instead of the former reference base.

(6) Where a percentage that is to be calculated in accordance with this clause is or includes a fraction of one-tenth of 1 per cent—

- 25 (a) if that fraction is less than one-half of one-tenth of 1 per cent—that fraction shall be disregarded; and
- (b) if that fraction is not less than one-half of one-tenth of 1 per cent—that fraction shall be treated as one-tenth of 1 per cent.

(7) Where any annual percentage change referred to in subclause (1) cannot, for the purpose of calculating an adjustment percentage for a year, be ascertained before
30 1st January in the following year because any information referred to in that subclause is not available, the Governor may, by order published in the Gazette, specify a percentage, which shall be deemed to be the annual percentage change ascertained in accordance with this Schedule.

(8) An order may be made for the purposes of subclause (7) only if the
35 Minister certifies to the Governor—

- (a) that the information was not available as referred to in that subclause; and

Health Insurance Levies.

SCHEDULE 2—*continued.*ADJUSTMENT OF PRESCRIBED RATE—*continued.*

- 5 (b) that the percentage to be specified in the order was calculated in accordance with estimates made having regard to, and by reference to, such relevant information as was reasonably available.

Governor may specify a different percentage.

3. (1) Subject to this clause, the Governor may, by regulation—
- 10 (a) specify a percentage for a year, by way of increase or reduction as specified therein, which shall for the purposes of this Schedule be deemed to be the adjustment percentage for that year, by way of increase or reduction as so specified, instead of any adjustment percentage calculated for that year in accordance with clause 2; or
- 15 (b) declare that there shall be no adjustment percentage for a year, in which case there shall for the purposes of this Schedule be deemed to be no such percentage.

(2) A regulation made for the purposes of subclause (1) (a) shall not have effect in respect of the adjustment percentage for a year if the application of the percentage specified in the regulation would result in the prescribed rate being greater than the prescribed rate that would be applicable from the operative date in the following year
20 had this clause never been in force.

(3) A regulation made for the purposes of subclause (1) shall not have effect in respect of the adjustment percentage for a year unless it is published in the Gazette before the operative date in the following year.

Adjustment of prescribed rate.

25 4. (1) Subject to this Schedule, where there is an adjustment percentage for a year, the prescribed rate (as adjusted by the previous operation, if any, of this subclause) is hereby adjusted, on and from the operative date in the following year, by that percentage.

(2) Where the prescribed rate, after it is adjusted under subclause (1), includes
30 a fraction of one-hundredth of a cent—

- (a) which is less than one-half of one-hundredth—that fraction shall be disregarded; or
- (b) which is not less than one-half of one-hundredth—that fraction shall be treated as one-hundredth.

Health Insurance Levies.

SCHEDULE 2—*continued.*

ADJUSTMENT OF PRESCRIBED RATE—*continued.*

Commissioner to publicise adjustments.

- 5 5. Where there is an adjustment percentage for a year, the Commissioner shall, before the operative date in the following year, publish in the Gazette a notice of the prescribed rate as adjusted in accordance with this Schedule on and from the operative date in the following year.

Savings.

- 10 6. An adjustment of the prescribed rate in accordance with this Schedule does not affect the liability of any organisation to pay a monthly levy in respect of a month before the adjustment takes effect, in accordance with this Act, and that organisation is liable to pay any such levy in all respects as if that adjustment had not been made.

SCHEDULE 3.

(Sec. 25.)

15

TRANSITIONAL PROVISIONS.

Commissioner and Assistant Commissioner—temporary appointments.

1. (1) Until a person is appointed as Commissioner, the person for the time being holding office as Commissioner for Business Franchise Licences (Petroleum Products) shall also hold office as Commissioner for Health Insurance Levies.
- 20 (2) Until a person is appointed as Assistant Commissioner, the person for the time being holding office as Assistant Commissioner for Business Franchise Licences (Petroleum Products) shall also hold office as Assistant Commissioner for Health Insurance Levies.

Due date for first levy.

- 25 2. The due date in accordance with section 10 for the payment of the monthly levy in respect of the month of January in 1983 shall, notwithstanding anything to the contrary in that section, be 31st January, 1983.

Health Insurance Levies.

SCHEDULE 3—*continued.*TRANSITIONAL PROVISIONS—*continued.***Exemption from fees—date of operation.**

5 3. (1) Section 17 (1) does not apply to out-patient services provided before 1st January, 1983.

(2) Section 17 (2) does not apply to ambulance services provided before 1st February, 1983.

Prescribed form of declaration.

10 4. Until such time as a form is prescribed for the purposes of section 18, the prescribed form referred to in that section shall, in relation to any out-patient service or ambulance service provided by a person, be a form approved by that person.

Winding up of ambulance contribution scheme.

15 5. (1) A contribution scheme established under section 7 of the Ambulance Services Act, 1976, and operated and conducted under that section immediately before the commencement of this Schedule may, if the Minister for Health so directs, be terminated.

(2) The termination of any such contribution scheme shall be effected in accordance with such directions as may be given by the Minister for Health.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1982

Received of _____

the sum of _____

for _____

HEALTH INSURANCE LEVIES ACT, 1982, No. 159

New South Wales



ANNO TRICESIMO PRIMO

ELIZABETHÆ II REGINÆ

Act No. 159, 1982.

An Act to impose a levy on organisations carrying on hospital benefits business in New South Wales; to make provision to free contributors to hospital benefit funds from certain hospital and ambulance fees; and for other purposes. [Assented to, 23rd December, 1982.]

Health Insurance Levies.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.**PRELIMINARY.****Short title.**

1. This Act may be cited as the "Health Insurance Levies Act, 1982".

Commencement.

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

- (2) Except as provided by subsection (1), this Act shall commence on 1st January, 1983.

Arrangement.

3. This Act is divided as follows:—

PART I.—PRELIMINARY—*ss.* 1–5.

PART II.—ADMINISTRATION—*ss.* 6–9.

PART III.—LEVIES—*ss.* 10–16.

PART IV.—EXEMPTION FROM FEES—*ss.* 17, 18.

PART V.—MISCELLANEOUS—*ss.* 19–26.

SCHEDULE 1.—RELEVANT MONTHS.

SCHEDULE 2.—ADJUSTMENT OF PRESCRIBED RATE.

SCHEDULE 3.—TRANSITIONAL PROVISIONS.

Health Insurance Levies.

Interpretation.

4. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

“ambulance service” means a service related to the work of rendering first aid to, and the transport of, sick and injured persons, but does not include a service of a class prescribed for the purposes of this definition;

“Assistant Commissioner” means the Assistant Commissioner for Health Insurance Levies referred to in section 6;

“basic hospital benefits” means those benefits payable to a contributor by an organisation in accordance with the basic hospital benefits table of the organisation;

“Commissioner” means the Commissioner for Health Insurance Levies referred to in section 6;

“contributor”, in relation to a hospital benefits fund conducted by an organisation, means a person who is a contributor to that fund in accordance with the rules of the organisation, and includes a person for whom or on whose behalf contributions are made;

“hospital benefits fund” means a fund out of which an organisation makes payments to contributors for periods of accommodation and maintenance in hospitals, and for surgical, therapeutic or other medical or health treatment, service or procedure in hospitals;

“inspector” means an inspector referred to in section 7 (1);

“levy” means a monthly levy or an additional levy under this Act;

“month” means any of the 12 months of the year;

“monthly levy”, in relation to a particular month specified in Column 1 of Schedule 1 in which the monthly levy is payable by an organisation, means the amount calculated in accordance with the following formula:—

$$L = \frac{AC}{B}$$

Health Insurance Levies.

where—

L is the monthly levy to be obtained;

A is the total amount of contributions received from contributors to the organisation in the relevant month (being the month specified in Column 2 of Schedule 1 opposite that particular month) for the purpose of securing entitlement to basic hospital benefits;

B is the amount of weekly contribution, as at the 15th day of that relevant month, required to be paid to the organisation by a single person for the purpose of securing entitlement to basic hospital benefits; and

C is the prescribed rate;

“organisation” means a society, body or group of persons, whether corporate or unincorporate, which conducts a hospital benefits fund;

“out-patient service”, in relation to a hospital, means a health service or procedure provided by the hospital to a person other than an in-patient in the hospital, but does not include a health service or procedure of a class prescribed for the purposes of this definition;

“prescribed rate” means—

(a) for January, 1983—40 cents; and

(b) thereafter—70 cents, as adjusted from time to time in accordance with Schedule 2;

“record” includes book, account, deed, writing and document and any other source of information compiled, recorded or stored in written form, or on microfilm, or by electronic process, or in any other manner or by any other means;

“regulations” means regulations under this Act.

(2) An organisation shall, for the purposes of this Act, be deemed to carry on the business in New South Wales of providing hospital benefits to contributors if—

(a) for the purposes of, or purposes related to, the enrolment of contributors to a hospital benefits fund conducted by it or the payment of benefits to any such contributors—

(i) it uses premises in New South Wales; or

Health Insurance Levies.

- (ii) it uses, in New South Wales, the services of a servant or an agent; or
- (b) any of the contributors to a hospital benefits fund conducted by it are permanently resident in New South Wales.

(3) Where an organisation carries on the business in New South Wales of providing hospital benefits to contributors—

- (a) except as provided by paragraph (b), the amount of any contributions received by the organisation from persons permanently resident outside New South Wales shall not be included in A in the definition of “monthly levy” in subsection (1);
- (b) the amount of any contributions received by the organisation from persons permanently resident in the Australian Capital Territory or the Northern Territory shall be included in A in that definition unless the regulations otherwise provide; and
- (c) the amount of any contributions of a prescribed class received by the organisation shall not be included in A in that definition.

(4) Where a levy comprises, in addition to a number of dollars, a number of cents, that number of cents shall, for the purposes of this Act, be disregarded.

Crown bound.

5. This Act binds the Crown not only in right of New South Wales but also, so far as the legislative power of Parliament permits, the Crown in all its other capacities.

PART II.

ADMINISTRATION.

Commissioner and Assistant Commissioner for Health Insurance Levies.

6. (1) There shall be a Commissioner for Health Insurance Levies and an Assistant Commissioner for Health Insurance Levies, each of whom shall be appointed under, and hold office subject to, the Public Service Act, 1979.

Health Insurance Levies.

(2) The Assistant Commissioner shall have and may exercise or perform—

- (a) where the Commissioner is absent from office or the office of Commissioner is vacant, all the powers, authorities, duties and functions conferred or imposed on the Commissioner by this Act or the regulations; or
- (b) where the Commissioner has directed the Assistant Commissioner to exercise or perform any of those powers, authorities, duties or functions, such of those powers, authorities, duties or functions as are specified in the direction.

(3) No person shall be concerned to inquire whether the Assistant Commissioner is entitled to exercise or perform the powers, authorities, duties and functions conferred or imposed on the Commissioner by this Act or the regulations.

Inspectors.

7. (1) Inspectors may be appointed for the purposes of this Act under and subject to the Public Service Act, 1979.

(2) For the purposes of this Act, an inspector, on production of written evidence of his appointment as an inspector, may at any reasonable time and with such assistants as he considers necessary—

- (a) enter and remain on any premises which are used, or which he reasonably suspects are used, by an organisation;
- (b) request any person found in or on those premises—
 - (i) to produce any record which relates to, or which the inspector reasonably suspects relates to, the conduct of a hospital benefits fund, and which at the time of the request is in the possession or under the control of that person;
 - (ii) to produce a statement, written in the English language, setting out the particulars contained in any such record that is not written or not written in the English language; and
 - (iii) to answer any question with respect to any such record or statement or the conduct of a hospital benefits fund; and
- (c) take copies of, or extracts from, any such record or statement.

Health Insurance Levies.

- (3)** A person shall not—
- (a) prevent or attempt to prevent an inspector from exercising any power conferred on him by subsection (2);
 - (b) hinder or obstruct any inspector in the exercise of any such power;
or
 - (c) fail to comply with a request of an inspector under subsection (2) (b).

Penalty: \$1,000 or imprisonment for 3 months, or both, and in the case of an offence under paragraph (c) an additional penalty of \$200 for every day on which the offence continues.

(4) A person is not guilty of an offence under subsection (3) (c) by reason of his failure to answer any question referred to in subsection (2) (b) (iii) if he proves to the satisfaction of the court that he did not know, and could not with reasonable diligence ascertain, the answer to the question.

(5) A person is not excused from answering any question if requested to do so under subsection (2) (b) (iii) on the ground that the answer might tend to criminate him or make him liable to a penalty but the information furnished by him shall not be admissible against him in any proceedings, civil or criminal, except in proceedings for an offence under subsection (3) or section 21.

(6) Where an answer to a question referred to in subsection (2) (b) (iii) or any information whatever is given to an inspector by an officer of a corporation within the meaning of the Companies (New South Wales) Code which is carrying on or has carried on the business in New South Wales of providing hospital benefits to contributors, the answer and information are, for the purposes of any proceedings against the corporation under any of the provisions of this Act, binding upon and admissible in evidence against the corporation unless it is proved that the answer or information was given in relation to a matter in respect of which the officer had no authority to bind the corporation.

(7) The provisions of subsection (6) are in addition to and not in derogation of any rule of law relating to the binding effect and admissibility in evidence of statements made by any officer or employee of a corporation.

Health Insurance Levies.

Certain particulars to be furnished.

8. (1) The Commissioner may, by instrument in writing, require—

- (a) an organisation which is carrying on, or has carried on, the business in New South Wales of providing hospital benefits to contributors; or
- (b) a person who, as the agent or employee of an organisation referred to in paragraph (a), has or has had duties, or provides or has provided services, in connection with such a business,

to furnish to the Commissioner, or to furnish to the Commissioner in writing, within such period as is specified in the instrument or such further period as the Commissioner may allow—

- (c) a statement of such particulars with respect to that business as are so specified not being particulars relating to a period after the date of the requirement; and
- (d) if the Commissioner thinks fit, a certificate signed by a person registered as a public accountant under the Public Accountants Registration Act, 1945, certifying that the statement is correct.

(2) A person shall not fail to comply with any requirement made of him under subsection (1).

Penalty: \$1,000 or imprisonment for 3 months, or both, and an additional penalty of \$200 for every day on which the offence continues.

(3) A person is not guilty of an offence under subsection (2) if the court is satisfied—

- (a) that the defendant could not, by the exercise of reasonable diligence, have complied with the requirement to which the charge relates; or
- (b) that the defendant complied with that requirement to the extent of his ability to do so.

Health Insurance Levies.

Protection for Commissioner, etc.

9. Any matter or thing done by the Commissioner, the Assistant Commissioner, an inspector or any other person bona fide for the purpose or purported purpose of administering or executing this Act or the regulations shall not subject him personally to any action, liability, claim or demand.

PART III.

LEVIES.

Monthly levy payable.

10. Any organisation which carries on the business in New South Wales of providing hospital benefits to contributors shall be liable to pay to the Commissioner, on or before the 15th day of each month, the monthly levy.

Requirement to furnish a monthly return.

11. Any organisation which carries on the business in New South Wales of providing hospital benefits to contributors shall furnish, together with each monthly levy under section 10, a return in or to the effect of the prescribed form.

Penalty: \$5,000.

Assessment, etc., of monthly levy.

12. (1) Where an organisation is liable to pay a monthly levy under section 10 but is unable to determine accurately, for the purpose of calculating the amount of that monthly levy—

- (a) the amount of contributions received from contributors to a hospital benefits fund conducted by it who are permanently resident outside New South Wales or in the Australian Capital Territory or the Northern Territory; or

Health Insurance Levies.

(b) any other matter,

the organisation may make such a determination of the matter as it considers reasonable in the circumstances of the case.

(2) Where—

- (a) the Commissioner is of the opinion that the amount of a monthly levy paid by an organisation is not the amount required to be paid by the organisation under section 10; or
- (b) an organisation has failed to pay a monthly levy on or before the due date in accordance with section 10,

the Commissioner may at any time assess the amount of the monthly levy and, for that purpose, may make such a determination of the matters referred to in subsection (1) as he considers reasonable in the circumstances of the case, notwithstanding any determination made by the organisation under subsection (1).

(3) Notice of an assessment of the Commissioner under subsection (2) shall be served by the Commissioner on the organisation to which the assessment relates.

(4) Where the amount of a monthly levy assessed by the Commissioner under subsection (2) is less than the amount of the monthly levy paid by the organisation, the amount overpaid shall be refunded by the Commissioner.

(5) For the purposes of any proceedings against an organisation for the recovery of a monthly levy that has not been paid or for the recovery of part of a monthly levy that has not been fully paid, a certificate purporting to be signed by the Commissioner and stating that a specified amount is the amount assessed under subsection (2) in respect of that levy, or is the amount as varied in pursuance of the regulations under subsection (6) in respect of that levy, is admissible in the proceedings and shall be prima facie evidence of the matters so certified.

(6) The regulations may make provision for or with respect to objections and appeals against assessments of the Commissioner under subsection (2).

Health Insurance Levies.

(7) Nothing in this section affects the date on or before which a monthly levy is payable in accordance with section 10.

Additional levy.

13. (1) If a monthly levy is not paid by an organisation on or before the due date in accordance with section 10, or on or before such later date as the Commissioner may in his discretion allow, an additional levy shall be payable by the organisation at the rate of 20 per cent per annum upon the amount of the monthly levy unpaid, to be computed from the due date or, where a later date has been allowed under this section, from that date.

(2) The Commissioner may, for reasons which in his discretion he thinks sufficient, remit any additional levy imposed or any part thereof.

Levy to be debt due to the Crown.

14. (1) A levy shall be deemed, when it becomes due and payable, to be a debt due to the Crown and payable to the Commissioner.

(2) Any levy unpaid may be sued for and recovered in any court of competent jurisdiction by the Commissioner suing in his official name.

Money to be paid into Consolidated Fund, etc.

15. (1) All money recovered under this Act shall be paid by the Commissioner into the Consolidated Fund.

(2) The Treasurer may, in respect of the Australian Capital Territory or the Northern Territory, pay from time to time in accordance with subsection (3) amounts equal to so much of the levies paid under this Act that, in the opinion of the Treasurer, relates to contributors permanently resident in that Territory.

(3) Any payment that may be made under subsection (2) in respect of the Australian Capital Territory or the Northern Territory, shall be paid out of money provided by Parliament to such person, on behalf of that Territory, as the Treasurer considers appropriate.

Health Insurance Levies.

Adjustment of prescribed rate.

16. Schedule 2 has effect.
-

PART IV.**EXEMPTION FROM FEES.****Exemption from out-patient hospital and ambulance fees.**

17. (1) Notwithstanding anything to the contrary in the Public Hospitals Act, 1929, no fee shall be payable in respect of an out-patient service provided to a person by a hospital (being an incorporated hospital or a separate institution within the meaning of, or a hospital specified in the Fifth Schedule to, that Act) if the person was, at the time the service was provided, a contributor to a hospital benefits fund conducted by an organisation to which section 10 applies.

(2) Notwithstanding anything to the contrary in the Ambulance Services Act, 1976, no fee shall be payable in respect of an ambulance service provided to a person in pursuance of that Act if the person was, at the time the service was provided, a contributor to a hospital benefits fund conducted by an organisation to which section 10 applies.

(3) Subsections (1) and (2) do not affect the operation of—

- (a) section 30A of the Public Hospitals Act, 1929;
- (b) section 10 of the Workers' Compensation Act, 1926; or
- (c) Division 2 of Part II of the Motor Vehicles (Third Party Insurance) Act, 1942.

Health Insurance Levies.

Declarations to be made by certain persons.

18. A person is, notwithstanding section 17, liable for payment in respect of an out-patient service referred to in section 17 (1) or an ambulance service referred to in section 17 (2) unless a declaration is made by or on behalf of the person in or to the effect of the prescribed form.

PART V.**MISCELLANEOUS.****Records to be kept.**

19. An organisation which carries on the business in New South Wales of providing hospital benefits to contributors shall—

- (a) keep such records as may be prescribed containing such particulars as may be prescribed relating to that business; and
- (b) preserve each of those records for a period of 5 years after the last entry was made in it.

Penalty: \$5,000.

Disclosure of information.

20. (1) Except as provided by subsection (2), a person shall not disclose any information or publish any record or part of any record obtained by him in connection with the administration or execution of this Act or the regulations, unless the disclosure or publication is made—

- (a) with the consent of the person from whom the information or record was obtained;
- (b) in connection with the administration or execution of this Act or the regulations; or
- (c) for the purpose of any legal proceedings arising out of this Act or the regulations or of any report of any such proceedings.

Penalty: \$5,000.

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(2) The Commissioner may communicate any matter which comes to his knowledge in the exercise or performance of his powers, authorities, duties or functions under this Act or the regulations to an officer or authority engaged in administering or executing a law of another State or a Territory of the Commonwealth relating to the imposition of levies on organisations carrying on the business in that State or Territory of providing hospital benefits to contributors.

(3) Nothing in subsection (1) prevents the disclosure of information or the publication of a record in accordance with any lawful requirement of the Australian Statistician.

False or misleading statements.

21. (1) A person shall not—

- (a) in furnishing any return or information;
- (b) in making a declaration; or
- (c) in keeping any record,

pursuant to this Act, make any statement or representation that is false or misleading in a material particular.

Penalty: \$1,000 or imprisonment for 3 months, or both.

(2) It is a defence to a charge under subsection (1) if it is proved that, at the time the statement or representation was made, the defendant believed on reasonable grounds that it was neither false nor misleading.

Proceedings for offences.

22. (1) Proceedings for an offence against this Act or the regulations may be taken only in a summary manner before a stipendiary magistrate sitting in petty sessions.

(2) Proceedings for an offence against this Act may be commenced at any time within a period of 2 years after the commission of the offence.

Health Insurance Levies.

(3) An information for an offence against this Act or the regulations may not be laid without the approval in writing of the Minister.

(4) An information laid for an offence against this Act or the regulations shall, in the absence of evidence to the contrary, be deemed to have been laid with the approval in writing of the Minister.

(5) An information for an offence against this Act or the regulations may be laid in the name of the Commissioner by any officer of the Public Service employed in the administration or execution of this Act and authorised to lay informations on behalf of the Commissioner, and any prosecution instituted in the name of the Commissioner shall, in the absence of evidence to the contrary, be deemed to have been instituted by his authority.

(6) An officer referred to in subsection (5) may appear on behalf of the Commissioner in any proceedings for an offence against this Act or the regulations.

Offences by corporations.

23. (1) Where a corporation contravenes, whether by act or omission, any provision of this Act or the regulations, each director of the corporation, and each person concerned in the management of the corporation, shall be deemed to have contravened the same provision unless he satisfies the court that—

- (a) the corporation contravened the provision without his knowledge;
- (b) he was not in a position to influence the conduct of the corporation in relation to its contravention of the provision; or
- (c) he, being in such a position, used all due diligence to prevent the contravention by the corporation.

(2) A person may be proceeded against and convicted under a provision pursuant to subsection (1) whether or not the corporation has been proceeded against or been convicted under that provision.

(3) Nothing in subsection (1) prejudices or affects any liability imposed by a provision of this Act or the regulations on any corporation by which an offence against the provision is actually committed.

Health Insurance Levies.

Service of documents.

24. (1) Any notice or other document required or authorised by this Act or the regulations to be served or given by the Commissioner shall be deemed to have been duly served or given—

- (a) if delivered personally to, or if left at the last known place of abode or business in or out of the State of, the person on or to whom the notice or document is to be served or given; or
- (b) if sent by prepaid letter post, addressed to the person on or to whom the notice or document is to be served or given at his last known place of abode or business in or out of the State.

(2) Service of a notice or document in accordance with subsection (1) (b) shall prima facie be deemed to have been effected at the time when it would be delivered in the ordinary course of post.

(3) The provisions of this section are in addition to and not in derogation of the provisions of sections 528, 529 and 530 of the Companies (New South Wales) Code.

Transitional provisions.

25. Schedule 3 has effect.

Regulations.

26. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) A provision of a regulation may—

- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- (b) apply differently according to different factors of a specified kind;
or

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(c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body, or may do any combination of those things.

(3) A regulation may impose a penalty not exceeding \$2,000 for an offence against the regulation.

 SCHEDULE 1.

(Sec. 4 (1).)

RELEVANT MONTHS.

Column 1. <i>Month of year in which levy is payable.</i>	Column 2. <i>Relevant month.</i>
January February March April May June July August September October November December	October (previous year) November (previous year) December (previous year) January (same year) February (same year) March (same year) April (same year) May (same year) June (same year) July (same year) August (same year) September (same year)

 SCHEDULE 2.

(Sec. 16.)

ADJUSTMENT OF PRESCRIBED RATE.

Interpretation.

1. (1) In this Schedule, except in so far as the context or subject-matter otherwise indicates or requires—

“adjustment percentage”, in relation to a year, means (subject to clauses 2 (2) and 3 (1) (b)) the percentage for that year, calculated in accordance with clause 2 or specified pursuant to clause 3 (1) (a);

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 SCHEDULE 2—*continued.*

 ADJUSTMENT OF PRESCRIBED RATE—*continued.*

“year” means—

- (a) the period commencing on and including 1st January, 1983, and ending on and including 31st December, 1983; or
- (b) a subsequent period commencing on and including 1st January and ending on and including the next following 31st December.

(2) Where the prescribed rate is to be adjusted under this Schedule by reference to the adjustment percentage for a year, a reference (however expressed) in this Act to adjusting the prescribed rate is a reference to increasing or reducing the prescribed rate, as the case may require, according to whether the adjustment percentage represents an overall increase or reduction.

(3) In this Schedule, a reference to—

- (a) the March quarter of a year is a reference to January, February and March of that year;
- (b) the June quarter of a year is a reference to April, May and June of that year;
- (c) the September quarter of a year is a reference to July, August and September of that year; and
- (d) the December quarter of a year is a reference to October, November and December of that year.

(4) A reference in this Schedule to the operative date in a year is a reference to 1st January in that year or such later date in that year as the Governor determines by order published in the Gazette before 1st January in that year.

Calculation of adjustment percentage.

2. (1) For the purposes of the definition of “adjustment percentage” in clause 1 (1), the percentage for a year (referred to in this clause as the “relevant year”) shall be calculated in accordance with the following formula:—

$$P = 0.75 p(L) + 0.25 p(I)$$

where—

- (a) “P” is the percentage to be obtained;

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SCHEDULE 2—*continued.*ADJUSTMENT OF PRESCRIBED RATE—*continued.*

- (b) "p(L)" is the annual percentage change in the average weekly earnings for employees or a class of employees, for New South Wales, being the percentage change determined by reference to the amount shown for the September quarter of the relevant year to the amount shown for the September quarter of the previous year—
- (i) except as provided by subparagraph (ii)—in the group of amounts set out under the heading "All males", for New South Wales, in the series of Average Weekly Earnings, issued by the Australian Statistician; or
 - (ii) where some other group of amounts or of numbers (being a group of amounts or of numbers contained in a publication which relates to the average weekly earnings for employees or a class of employees, for New South Wales, and which is issued by the Australian Statistician) is prescribed for the purposes of this subparagraph—in the group of amounts or of numbers so prescribed;
- (c) "p(I)" is the annual percentage change in the price of goods and services, being the percentage change determined by reference to the index number shown for the September quarter of the relevant year to the index number shown for the September quarter of the previous year—
- (i) except as provided by subparagraph (ii)—in the group of numbers set out as the index numbers for Sydney in the Consumer Price Index (All Groups Index) issued by the Australian Statistician; or
 - (ii) where some other group of numbers or of amounts (being a group of numbers or of amounts which relate to the price of goods and services, and which is issued by the Australian Statistician) is prescribed for the purposes of this subparagraph—in the group of numbers or of amounts so prescribed.
- (2) Where the percentage calculated for a year in accordance with this clause is smaller than 0.1 per cent, or is nil, there shall be deemed to be no adjustment percentage for that year.
- (3) Where pursuant to subclause (2), but not otherwise, there is deemed to be no adjustment percentage for a year, then, for the purposes of calculating the adjustment percentage for the next year—
- (a) the amounts or numbers referred to in subclause (1) and shown for the September quarter of the firstmentioned year shall be deemed not to have been published in the documents so referred to; and
 - (b) the amounts or numbers shown for the September quarter of the last year for which there was an adjustment percentage (including a year in which there would have been an adjustment percentage if this Act had been in

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SCHEDULE 2—*continued.*ADJUSTMENT OF PRESCRIBED RATE—*continued.*

force at that time or if clause 3 (1) (b) had not been enacted) and published in the documents so referred to shall be deemed also to be the amounts or numbers so published for the September quarter of the firstmentioned year.

(4) If at any time, whether before or after the commencement of this Schedule, the Australian Statistician has published for a particular quarter an amount or number in substitution for an amount or number previously published by him in respect thereof—

- (a) except as provided in paragraph (b)—the publication of the later amount or number shall be disregarded; or
- (b) if the Minister so directs—regard shall, after the direction is given, be had to the later and not to the earlier amount or number so published,

for the purposes of this Schedule.

(5) Notwithstanding subclause (4), if at any time after the commencement of this Schedule the Australian Statistician changes the reference base in connection with any amounts or numbers included in any document published by him and referred to in subclause (1), then, for the purposes of the application of this clause after the change takes place, regard shall, unless the Minister otherwise directs, be had to amounts or numbers published in terms of the new reference base instead of the former reference base.

(6) Where a percentage that is to be calculated in accordance with this clause is or includes a fraction of one-tenth of 1 per cent—

- (a) if that fraction is less than one-half of one-tenth of 1 per cent—that fraction shall be disregarded; and
- (b) if that fraction is not less than one-half of one-tenth of 1 per cent—that fraction shall be treated as one-tenth of 1 per cent.

(7) Where any annual percentage change referred to in subclause (1) cannot, for the purpose of calculating an adjustment percentage for a year, be ascertained before 1st January in the following year because any information referred to in that subclause is not available, the Governor may, by order published in the Gazette, specify a percentage, which shall be deemed to be the annual percentage change ascertained in accordance with this Schedule.

(8) An order may be made for the purposes of subclause (7) only if the Minister certifies to the Governor—

- (a) that the information was not available as referred to in that subclause; and

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SCHEDULE 2—*continued.*ADJUSTMENT OF PRESCRIBED RATE—*continued.*

- (b) that the percentage to be specified in the order was calculated in accordance with estimates made having regard to, and by reference to, such relevant information as was reasonably available.

Governor may specify a different percentage.

3. (1) Subject to this clause, the Governor may, by regulation—
- (a) specify a percentage for a year, by way of increase or reduction as specified therein, which shall for the purposes of this Schedule be deemed to be the adjustment percentage for that year, by way of increase or reduction as so specified, instead of any adjustment percentage calculated for that year in accordance with clause 2; or
 - (b) declare that there shall be no adjustment percentage for a year, in which case there shall for the purposes of this Schedule be deemed to be no such percentage.

(2) A regulation made for the purposes of subclause (1) (a) shall not have effect in respect of the adjustment percentage for a year if the application of the percentage specified in the regulation would result in the prescribed rate being greater than the prescribed rate that would be applicable from the operative date in the following year had this clause never been in force.

(3) A regulation made for the purposes of subclause (1) shall not have effect in respect of the adjustment percentage for a year unless it is published in the Gazette before the operative date in the following year.

Adjustment of prescribed rate.

4. (1) Subject to this Schedule, where there is an adjustment percentage for a year, the prescribed rate (as adjusted by the previous operation, if any, of this subclause) is hereby adjusted, on and from the operative date in the following year, by that percentage.

(2) Where the prescribed rate, after it is adjusted under subclause (1), includes a fraction of one-hundredth of a cent—

- (a) which is less than one-half of one-hundredth—that fraction shall be disregarded; or
- (b) which is not less than one-half of one-hundredth—that fraction shall be treated as one-hundredth.

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SCHEDULE 2—*continued.*ADJUSTMENT OF PRESCRIBED RATE—*continued.***Commissioner to publicise adjustments.**

5. Where there is an adjustment percentage for a year, the Commissioner shall, before the operative date in the following year, publish in the Gazette a notice of the prescribed rate as adjusted in accordance with this Schedule on and from the operative date in the following year.

Savings.

6. An adjustment of the prescribed rate in accordance with this Schedule does not affect the liability of any organisation to pay a monthly levy in respect of a month before the adjustment takes effect, in accordance with this Act, and that organisation is liable to pay any such levy in all respects as if that adjustment had not been made.

SCHEDULE 3.

(Sec. 25.)

TRANSITIONAL PROVISIONS.**Commissioner and Assistant Commissioner—temporary appointments.**

1. (1) Until a person is appointed as Commissioner, the person for the time being holding office as Commissioner for Business Franchise Licences (Petroleum Products) shall also hold office as Commissioner for Health Insurance Levies.

(2) Until a person is appointed as Assistant Commissioner, the person for the time being holding office as Assistant Commissioner for Business Franchise Licences (Petroleum Products) shall also hold office as Assistant Commissioner for Health Insurance Levies.

Due date for first levy.

2. The due date in accordance with section 10 for the payment of the monthly levy in respect of the month of January in 1983 shall, notwithstanding anything to the contrary in that section, be 31st January, 1983.

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SCHEDULE 3—*continued.*

TRANSITIONAL PROVISIONS—*continued.*

Exemption from fees—date of operation.

3. (1) Section 17 (1) does not apply to out-patient services provided before 1st January, 1983.

(2) Section 17 (2) does not apply to ambulance services provided before 1st February, 1983.

Prescribed form of declaration.

4. Until such time as a form is prescribed for the purposes of section 18, the prescribed form referred to in that section shall, in relation to any out-patient service or ambulance service provided by a person, be a form approved by that person.

Winding up of ambulance contribution scheme.

5. (1) A contribution scheme established under section 7 of the Ambulance Services Act, 1976, and operated and conducted under that section immediately before the commencement of this Schedule may, if the Minister for Health so directs, be terminated.

(2) The termination of any such contribution scheme shall be effected in accordance with such directions as may be given by the Minister for Health.

In the name and on behalf of Her Majesty I assent to this Act.

J. A. ROWLAND,
Governor.

*Government House,
Sydney, 23rd December, 1982.*

